

## **REMARKS**

Pursuant to 37 C.F.R. §1.111, reconsideration of the instant application, as amended herewith, is respectfully requested. Entry of the amendment is requested.

Claim 1, as amended herein, is presently pending before the Office, with claims 2-6 being canceled herein. Applicant has amended the claims. No new matter has been added. Support for the amendments can be found throughout the specification as originally filed. Applicant is not intending in any manner to narrow the scope of the originally filed claims.

The Examiner's Action mailed May 1, 2009 and the references cited therein have been carefully studied by Applicant and the undersigned counsel. The amendments appearing herein and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is believed to be in condition for allowance.

Relying on 35 U.S.C. §102(b), the Examiner has rejected the subject matter of claims 1-3 as being anticipated by Crane. Applicant respectfully traverses the rejection and requests reconsideration.

Applicant respectfully submits that it is important to note that, historically, the Office and the Federal Circuit has required that for a §102 anticipation, a single reference must teach (i.e., identically describe) each and every element of the rejected claim. The Office has steadfastly and properly maintained that view.

The Crane patent fails this test. Applicant submits that the holes of Crane do not anticipate the slits of the present invention, in view of the disclosure in Crane such that, while the "holes may be of any shape and cut or otherwise formed in any desired manner" as cited by the examiner, Crane expressly teaches that "preferably they are circular and are formed by

punching” at col. 5, lines 17-18. Consequently, the holes of Crane should only be holes which do not include the slits linear or curved.

As regards the manner in which the holes are present, the examiner interprets Crane as teaching the linearly extending or curved state slits, because a plurality of holes are present in a curved manner from the center, as seen in Fig. 2. However, Crane clearly discloses that “the holes are located on an involute curve” (col. 5, line 20), and that “the arrangement in a logarithmic curve gives superior results to other arrangements of holes” (col. 5, lines 28-30), which disclosure should not suggest any linearly extending or simply curved slits of the present invention.

Further, Crane discloses that “the holes are spaced along the curve and made of such diameters or widths as will cause interruption or cutting of the lines on which harmonic vibrations could occur” (col. 5, lines 23-27) and that “the arrangement in a logarithmic curve gives superior results” (col. 5, lines 28-30).

However, the present invention is directed to providing a diaphragm for loudspeakers which is prevented from involving the axisymmetrical resonance mode in the high frequency range by means of the linear or curved slits extending from the center portion to the outer circumference and filled with the low-elasticity material different from that of the diaphragm body. The intention of the present invention is thus different from that of Crane, and in view of these distinguishing characteristics, the present invention should be deemed not anticipated by Crane.

Accordingly, each and every element of Applicant's claim 1 has not been taught in that single reference. In other words, the rejected claims do not read literally on any single item of prior art because Crane does not teach claim 1 as herein amended for the reasons discussed

above. Accordingly, Applicant respectfully submits that claim 1 has not been anticipated by the patent under 35 U.S.C. §102(b), and respectfully requests that such rejection be withdrawn.

Relying on 35 U.S.C. §103(a), the Examiner has rejected the subject matter of claims 4-5 as obvious over Crane in view of Nakamura and claim 6 as obvious over Crane. Although applicant respectfully disagrees with the examiner given the arguments made above regarding Crane, this rejection is now considered moot with the cancellation of claims 3-6 herein.

### CONCLUSION

Even though the initial claims in this important patent application were drawn to a new, useful and nonobvious invention, they have now been amended to increase their specificity of language. Applicant respectfully submits that claim 1, as amended herein, is patentable over the art of record.

A Notice of Allowance is earnestly solicited.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 943-9300 would be appreciated.

Very respectfully,

July 24, 2009  
Dated: \_\_\_\_\_

/Dennis G. LaPointe/

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